

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN SENATE JUNE 22, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 852

Introduced by Assembly Member Fong

February 17, 2011

An act to add Section 87482.1 to the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 852, as amended, Fong. Public postsecondary education: community colleges: temporary faculty.

Existing law establishes the California Community Colleges, which are administered by the Board of Governors of the California Community Colleges. Governing bodies of community college districts are authorized to employ any person holding appropriate certification documents, and to classify these employees as temporary employees, as prescribed.

This bill would provide that beginning July 1, ~~2012~~ 2013, temporary community college faculty members have a right of first refusal for assignments, as defined, subject to any greater rights provided in a collective bargaining agreement or otherwise provided by a district. A temporary faculty member would only be denied the right of first refusal for just cause, as defined. This bill would provide that the right of first refusal may not be construed as “reasonable assurance” of employment

for purposes of unemployment compensation eligibility between academic terms. The bill would provide that the right of first refusal provided by this bill applies only to assignments traditionally given to temporary faculty members *that are in a subject matter for which the faculty member is qualified to teach*, and shall not apply to contract faculty members, regular faculty members, or faculty overload assignments. *The bill would require specified rights granted to terminated employees to be satisfied before providing the right of first refusal provided by this bill, following a layoff.*

Because this bill would impose additional duties on community college districts, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California's community colleges have historically hired
- 4 temporary faculty to teach courses in basic skills, entry level
- 5 transfer courses, and career technical education. The employment
- 6 of temporary faculty enriches the curriculum, adds diversity of
- 7 experience and knowledge to the college, and strengthens the tie
- 8 between the college and its community.
- 9 (b) Temporary faculty comprise over 40,000 of the current
- 10 community college faculty and teach approximately 45 percent of
- 11 all community college courses in California.
- 12 (c) Student success is predicated on a consistent and stable
- 13 workforce that is knowledgeable, meets performance expectations
- 14 through satisfactory evaluations, and lends both expertise and
- 15 experience to the needs of the college and students. A secure pool
- 16 of temporary, part-time faculty is necessary on a long-term basis
- 17 to support students who require continuity of quality instruction,

1 mentoring, letters of recommendation, curriculum development,
2 and learning outcomes assessment that will improve student success
3 and retention.

4 (d) With workforce reductions and other adjustments in meeting
5 college needs, temporary faculty who have experience and
6 knowledge and meet the needs of students and the college are
7 being disenfranchised from the college workforce. This act will
8 provide the colleges with a proven pool of faculty who have
9 historically served the college, satisfactorily served student needs
10 and success, and have been proven to be an asset to the continued
11 needs of the college.

12 (e) This act should not be construed to diminish or otherwise
13 affect the requirements, guarantees, or other protections under a
14 collective bargaining agreement, district policy, or state or federal
15 law that provides for greater or additional requirements, guarantees,
16 or protections than those provided under this act.

17 SEC. 2. Section 87482.1 is added to the Education Code, to
18 read:

19 87482.1. (a) Commencing July 1, ~~2012~~ 2013, temporary
20 community college faculty members shall have a right of first
21 refusal for assignments as set forth in this section, subject to any
22 greater rights provided in a collective bargaining agreement or
23 otherwise provided by a district.

24 (b) A temporary faculty member who has been employed in a
25 community college for at least four of the preceding eight semesters
26 or at least six of the preceding 12 quarters and whose last
27 evaluation, if any, was satisfactory shall have the right of first
28 refusal for an assignment in the community college district that
29 the faculty member has performed within the preceding eight
30 semesters or preceding 12 quarters. If two or more temporary
31 faculty members claim the same assignment, the assignment shall
32 be offered in the order of seniority.

33 (c) A temporary faculty member may be denied the right of first
34 refusal only for just cause, which includes, but is not limited to,
35 giving the assignment to a more senior faculty member, failure of
36 a faculty member to timely request the assignment in writing if
37 required by the district, or a district decision not to offer the
38 assignment because of recent low enrollment, funding, or program
39 changes.

1 (d) The right of first refusal of an assignment granted by this
2 section shall not be construed as “reasonable assurance” of
3 employment for purposes of unemployment compensation
4 eligibility between academic terms.

5 (e) This section applies only to assignments traditionally given
6 to temporary faculty members *that are in a subject matter for*
7 *which the temporary faculty member is qualified to teach, as*
8 *determined by the community college district.* Nothing in this
9 section shall apply to contract faculty members, regular faculty
10 members, or faculty overload assignments.

11 (f) *Following a layoff, the rights granted to a terminated*
12 *employee pursuant to Sections 87744 and 87745 shall be satisfied*
13 *before providing a right of first refusal pursuant to this section.*

14 (g) *This section shall not supersede collective bargaining*
15 *agreements entered into on or before July 1, 2013.*

16 SEC. 3. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.